

DETAILED SCOPING COMMENTS FOR THE ROCKY FLATS PLANT SITE-WIDE EIS
BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY

Wetlands

The discharge of fill material into wetlands and other waters of the United States is regulated by Section 404 of the Clean Water Act, 33 U.S.C. 1344. In addition, compliance with Executive Order 11990, Protection of Wetlands would be required. EPA's primary objectives regarding the filling of wetlands, in order of preference, consist of: avoidance, minimization, and lastly, mitigation of unavoidable impacts.

Depending on the location and the amount of fill material to be deposited, a Section 404 permit issued by the Department of the Army, Corps of Engineers (COE) may be required. Prior to any actions requiring placement of fill material in wetlands or waters of the U.S., the Omaha District of COE should be contacted to determine if a permit would be needed.

Waste Management

EPA views the following as some of the key concerns regarding waste management that need to be addressed in the EIS:

1. Waste storage limits. Specifically, the EIS must analyze the environmental impact of incremental waste generation due to resumption of production operations in light of:
 - a. The potential for exceeding imposed storage limits upon resumption of production operations.
 - b. Continued generation of waste prohibited by EPA Land Disposal Restrictions (LDR), when there presently is no national treatment nor disposal capacity available for such waste.
 - c. Continued generation of solid waste when the present on-site landfill being used for disposal is to be closed and there are currently no alternative off-site landfills willing to accept Rocky Flats solid waste.
2. Implementation of a detailed waste characterization program to determine applicable treatment and disposal criteria for both ongoing waste generation and the current backlog of stored wastes requiring treatment in order to meet regulations.

3. Disclosure of all likely waste treatment processes, including requirements for new treatment facilities, and the environmental impact of on-site treatment.
4. The incorporation of all practical waste minimization practices into the Plant's production processing. For example, the EIS may consider decreasing hazardous waste disposal volumes by incorporating process modifications that allow upstream separation of LDR wastes and, as feasible, the recycling of those wastes.

Resolution of Conflicting Plant Operations/Restoration and Waste Management Activities

DOE has expressed a goal to resume operations in the near future. Within the scope of near-term plant operations, the EIS must address potential conflicts in which operations may disrupt the schedule of ongoing or planned environmental restoration projects or waste management activities.

A particularly notable impediment to the resumption of operations is the presence of plutonium contamination in the Plant's air duct systems. EPA is concerned as to how resumption of operations may hamper the ongoing plutonium removal process.

Similarly, any hindrances to environmental restoration projects or waste management activities created by the resumption of operations need to be addressed. Some examples of potentially conflicting activities include:

1. Plant construction activities in areas known to be contaminated with hazardous substances or hazardous wastes.
2. Potential operational or maintenance activities that may disrupt environmental restoration activities.
3. Chronic routine releases of plutonium through the Plant's airducts into areas undergoing environmental remediation.

The issues described in this section require careful preplanning in light of the pending resumption of the fabrication of plutonium components and related operations. The EIS must fully explore various mechanisms that will accommodate, without delay in schedule, all environmental restoration and waste management activities. In summary, as DOE has stated as public policy, serious safety and environmental violations must be remedied prior to reestablishing operations in affected facilities.

Application of CERCLA Review to Rocky Flats Plant Remediation Activities

EPA appreciates DOE's reference to Section 1506.1 (c), Limitations on actions during the NEPA process of the CEQ regulations (Federal Register NOI, 3/13/91, p. 10550), regarding the environmental review of proposed projects. The regulation states: "While work on a required environmental impact statement is in progress and the action is not covered by an existing program statement, agencies shall not undertake any interim action ... unless such action: (1) Is justified independently of the program; (2) Is itself accompanied by an adequate environmental impact statement; and (3) Will not prejudice the ultimate decision on the program..."

EPA requests that the EIS clarify the statement in the NOI that "DOE will determine case-by-case whether a proposed project may proceed before the Site-Wide EIS is completed..." (NOI, p. 10550). CERCLA restoration activities, as contained in the recently executed Interagency Agreement, must not be delayed while awaiting completion of the NEPA process. For clarification, the EIS should, as specifically as possible, categorize activities according to their intended purpose as: interim actions, proposed new projects, or joint purpose. The latter projects may include those designed to support both production and CERCLA cleanup activities.

Compliance with Recently Enacted Laws and Agreements

In addition to the aforementioned Interagency Agreement, proposed activities of the Site-Wide EIS must be in compliance with all other existing and recently enacted laws and agreements applicable to Rocky Flats. Additionally, the EIS must allow incorporation of any future laws or compliance agreements specifically related to RFP activities. A few recent laws/agreements bear noting.

1. Proposed activities must be conducted in accordance with the recently executed National Pollutant Discharge Elimination System (NPDES) Federal Facilities Compliance Agreement (FFCA). The NPDES permit expired June 30, 1989, and has been administratively extended. Work on the renewal permit is expected to begin this summer. Although it is anticipated that the renewal permit will be issued prior to completion of the EIS, the permit will contain a reopener provision allowing for inclusion of appropriate requirements based on the final EIS.

2. All proposed activities will be conducted in compliance with the Clean Air Act of 1990. It is recommended that consultation be conducted with regulating authorities to keep abreast of current and pending regulations in this area.

New Construction and Modifications to Existing Facilities

Although possible relocation of the Plant is to be addressed separately in the Programmatic EIS (PEIS), it is prudent to recognize that the PEIS states: "Specifically, the preferred alternative will include: (1) relocating the nuclear weapons functions now assigned to the Rocky Flats Plant near Denver, Colorado, and closing the nuclear weapons complex facilities at that plant ..."

The potential relocation of the Plant's functions, as the preferred alternative of the PEIS, should be a prime consideration with respect to engaging in new projects. It is critical, in order to minimize impacts on air and water quality in the metropolitan area, that proposed projects constitute essential construction having long-term as well as near-term utility. Therefore, the scope of such projects might be limited to purposes such as restoration and waste treatment requirements and facility modifications designed to meet safety compliance, building code standards, and potential shutdown operations.

Additional Items

The Site-Wide EIS should also contain a Maximum Credible Event analysis of an environmental release following a major accident. Finally, EPA recommends that DOE certify its ongoing program to rectify areas of public environmental concern by providing full NEPA disclosure of past federal and state environmental violations and their resolution.